

*What Every Member of the
Trade Community Should Know About:*

Classification and Marking of Watches and Clocks



AN INFORMED COMPLIANCE PUBLICATION

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U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study of the classification and marking requirements of watches and clocks. “Classification and Marking of Watches and Clocks” provides guidance regarding the classification of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, (Mint Annex) NW, Washington, D.C. 20229.

Michael T. Schmitz,
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Office of Regulations and Rulings

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CLASSIFICATION OF WATCHES AND CLOCKS	7
Watches	7
Clocks	7
MARKING	8
Section 304 Marking.....	8
Special Marking Requirements	10
Methods of Marking.....	11
ADDITIONAL INFORMATION.....	13
The Internet.....	13
Customs Regulations	13
Customs Bulletin	13
Importing Into the United States	14
Informed Compliance Publications	14
Value Publications.....	15
“Your Comments are Important”	16

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CLASSIFICATION OF WATCHES AND CLOCKS

Watches

Watches are classified in Chapter 91 of the Harmonized Tariff Schedule of the United States (HTSUS) under headings 9101 and 9102. Heading 9101 covers watches with cases of precious metal or of metal clad with precious metal. Heading 9102 covers watches other than those of heading 9101 (watches with cases which are not of precious metal or of metal clad with precious metal). Headings 9101 and 9102 include wristwatches and other watches.

Watches are defined in Additional U.S. Note 1 (a), to Chapter 91, as embracing timepieces (including timepieces having special features, such as chronographs, calendar watches and watches designed for use in skin diving) of a kind for wearing or carrying on the person. Time pieces incorporating a stand, however simple, are not classified as watches. Common types of watches are wristwatches, pocket watches, pendant watches (the chains are separately classified), clip-on watches and stop watches.

The term “**watch movement**,” as related to mechanical movements, is defined in Note 3 to Chapter 91, HTSUS, as meaning a device regulated by a balance wheel and hairspring, quartz crystal or any other system capable of determining intervals of time, with a display or a system to which a mechanical display can be incorporated. Watch movements cannot exceed 12mm in thickness and 50mm in width, length or diameter.

Clocks

Clocks are classified under headings 9103, 9104, and 9105. Heading 9103 covers clocks containing watch movements other than clocks of 9104. Heading 9104 covers instrument panel clocks for vehicles, aircraft, spacecraft or vessels. Heading 9105 covers other clocks, including alarm clocks, wall clocks, and desk clocks.

Clock movements are defined in the HTSUS, in Additional U. S. Note 1 (d) to Chapter 91, as devices regulated by a balance wheel and hairspring, quartz crystal or any other system capable of determining intervals of time, with a display or a system to which a mechanical display can be incorporated. Clock movements must exceed either 12mm in thickness or 50mm in width, length or diameter, or both. If a movement in a clock does not exceed either of these dimensions, 12mm in thickness or 50mm in width, length or diameter, the clock is considered a clock with a watch movement, classifiable in heading 9103. These types of clocks are commonly referred to as mini-clocks. It should also be noted that in addition to watches and clocks, certain timers and time switches are classified in Chapter 91, HTSUS.

MARKING

Watches and clocks are required to be marked in accordance with two separate marking requirements. One is the country of origin marking requirements of Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304). The other is the special marking requirements of Chapter 91, Additional Note 4, HTSUS ("Note 4"). Sections 134.43 (b) and 11.9, Customs Regulations, provide that clocks and watches must be marked in accordance with Chapter 91, Note 4, HTSUS. As discussed below, the requirements are complex and quite specific, especially those relating to the special marking requirements of Chapter 91.

Section 304 Marking

Under section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), every article of foreign origin entering the United States must be legibly marked with the English name of the country of origin unless there is an exception from marking provided for in the law. The purpose of marking is to inform the ultimate purchaser in the United States of the country in which the imported article was made.

Marking must be conspicuous, legible, and permanent. As a general rule, 19 USC 1304 marking requirements are best met by marking worked into the articles at the time of manufacture. For example, it is suggested that the country of origin of metal articles be die-sunk, molded in or etched. However, for section 1304 marking, Customs normally permits any reasonable method of marking, which insures that the ultimate purchaser will see it, unless the statute requires a specific form of marking for the article. In general, pressure sensitive labels, paper stickers, or hang tags are acceptable as long as they are securely affixed in a conspicuous place which, unless deliberately removed, will remain on the article while it is in storage or on display until it reaches the ultimate purchaser of the article.

- Under 19 U.S.C.1304, as interpreted by Customs, **the country of origin of the movement of the watch or clock determines the country of origin of the watch or clock.** Although the addition of the hands, dial, or case add definition to the timepiece, they do not substantially change the character or use of the watch or clock movement, which is the essence of the watch or clock. Accordingly, a watch with one country of origin for the movement, another for the case, and another for the battery, is considered, for purposes of 19 USC 1304, to be a product of the country in which the movement was produced. The movement's country of origin should appear conspicuously and legibly on the dial face or on the outside of the back of the watch or clock.
- Watchbands (including watch straps) assembled to a watch in the same country **where the movement is assembled** are substantially transformed and become a product of that country. HRL 560471 dated January 5, 1998 is noted. In such a

case, assuming that the country of origin marking of the watch is otherwise conspicuous, legible and permanent, the band is not required to be marked. However, the assembly of a watchband with a watch in a country other than the country in which the watch was produced, does not result in a substantial transformation of the watchband. In this case, the watchband does not lose its identity during the assembly process. The watch and watchband must be separately marked with their respective countries of origin.

- If a watch or clock is sold to the ultimate purchaser in a sealed package, and if the country of origin is not clearly visible on the watch or clock through the packaging, the container must also be marked to indicate the country of origin of the watch or clock.

Acceptable markings for watches and clocks consist of just the name of the country of origin or the name of the country of origin preceded by "Made in," "Product of" or similar words. Also acceptable is the use of the word "Movement" or an abbreviation such as "Mov't" or "Movt" along with the name of the country. Examples of acceptable markings for a watch or clock if the movement is assembled in Hong Kong would be: "Hong Kong," "Hong Kong Movement," "Movement Hong Kong," or "MOVT Hong Kong." The wording "Swiss Made" is another example of an acceptable marking if the country of origin is Switzerland.

Where the parts of a movement are from one country, and the parts are assembled into a movement in a second country (the country of origin), the marking on the watch and clock may identify the country where the parts of the movement are made (in addition to the country of origin of the watch or clock), as long as the marking is in compliance with the requirements of 19 CFR 134.46. 19 CFR 134.46 provides that when the name of a place other than the country of origin appears on an imported article or its container, and the non-origin reference may mislead or deceive the ultimate purchaser as to the actual origin of the article, there shall appear, legibly and permanently, in close proximity to such place name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of" or words of similar meaning. As an example, if the parts of the movement are made in Switzerland and the movement is assembled in China, markings such as "Swiss Parts/Made in China," "Swiss Parts/Movement China," "Swiss Parts/China Movement" are acceptable.

Customs has allowed the phrase "Designed In" to be used in conjunction with country of origin information, for 19 USC 1304 marking purposes. The marking "Designed in USA, Made in (Country of Origin)," has been found to be an acceptable marking provided the words "Made In (Country of Origin)" appear in close proximity and in the same size lettering as the words "Designed in USA." See HRL 560202 dated December 20, 1996.

Special Marking Requirements

Chapter 91, Additional U.S. Note 4, HTSUS, sets forth the special marking requirements for watches and clocks. Movements with opto-electronic displays only and cases designed for use with opto-electronic movements, whether entered as separate articles or as components of assembled watches or clocks, are excepted from the special marking requirements of Additional U.S. Note 4. Opto-electronic displays refer to two specific types of watch or clock displays. In order to be considered a watch or clock with an opto-electronic display, the article must have a liquid crystal display (LCD) or a light emitting diode display (LED). Watches and clocks with mechanical displays, also referred to as analog displays are subject to the special marking requirements of Chapter 91. A mechanical or analog display has a dial, which may have numbers representing the hours of the day on it, and often has an hour hand, a minute hand, and a second (sweep) hand.

Additional U.S. Note 4 provides that the following markings are required for watches and clocks:

- **WATCH MOVEMENTS:** Must be marked on one or more of the bridges or top plates to show the name of the country of manufacture; the name of the manufacturer or purchaser; and in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.
- **WATCH CASES:** Must be marked on the inside or outside of the back to show the name of the country of manufacture and the name of manufacturer or purchaser.
- **CLOCK MOVEMENTS:** Must be marked on the most visible part of the front or back plate to show the name of the country of manufacture; the name of the manufacturer or purchaser, and the number of jewels, if any.
- **CLOCK CASES:** Must be marked on the most visible part of the outside of the back to show the name of the country of manufacture.

A clock case must be marked in accordance with the special marking requirements, even though the clock contains a watch movement, and the watch case enclosing the movement is marked on the inside of the back with the name of the country of manufacture. HRL 735158 dated December 17, 1993, is noted.

Clock cases embrace inner and outer cases, containers and housings for movements, together with parts or pieces, such as, but not limited to, rings, feet, posts, bases and outer frames which serve to complete the clock. Additional U.S. Note 1 (b) to Chapter 91, HTSUS, is noted. Often a clock movement will have an inner case, which immediately surrounds the movement, and an outer case which surrounds the

inner case and other parts of the clock. The outer cases must be marked in accordance with the special marking requirements of chapter 91.

In HRL 560866 dated November 30, 1998, Customs found that the cardboard exterior which surrounded the parts of a clock and acted as an outer case, was a clock case and therefore subject to the special marking requirements of Note 4. In another ruling, it was determined that a ceramic figurine was the clock case for a certain clock and thus, the clock case had to be marked in accordance with Additional U.S. Note 4 to Chapter 91. HRL 559934 dated October 23, 1996, is noted.

Customs has held that the special marking requirements of Chapter 91 apply, even when it is claimed that marking in the required way will cause tarnishing and corroding of the clock case, or damage the finish of the clock (HRL 559066 dated May 12, 1995, is noted). However, Note 4 does not require any additional marking indicating the number of jewels where a movement has no jewels. Accordingly, if a movement has no jewels, the marking "No (0) Jewels" is not required. See HRL 560636 dated January 26, 1998.

As noted, certain timers and time switches are also classified in Chapter 91, HTSUS. Timers which contain clock movements, as defined in Additional U.S. Note 1(d), are subject to the special marking requirements of Chapter 91. HRL 561018 dated June 12, 1998, is noted regarding kitchen timers.

Any movement or case provided for in Chapter 91 of the HTSUS must be marked in accordance with the special marking requirements whether it is imported separately or attached to an article provided for in the chapter. The term "purchaser" means the purchaser in the United States by whom or for whose account the articles are imported. Section 11.9 (b), Customs Regulations, is noted. As the special marking requirements of Additional U.S. Notes are Congressionally enacted, Customs has no authority to grant exceptions. The HTSUS provides that movements or cases provided for in Chapter 91 shall not be permitted entry unless properly marked as provided in the special marking requirements.

Methods of Marking

The marking specified by Chapter 91 must be accomplished by use of cutting, die-sinking, engraving, stamping (including by means of indelible ink) or mold-marking (either indented or raised). The use of pressure sensitive stickers, paper labels, hangtags or any other method not specifically mentioned in Additional U. S. Note 4 is not acceptable.

The methods of marking specified in Chapter 91 have specific meanings:

- **Cutting** means that the marking must be cut into the metal, plastic or other material used in the article.

- **Die-sinking** means stamping with a hard metal die to permanently mark the metal, plastic or other material.
- **Engraving** is to carve, cut or etch into the metal, plastic or other material.
- **Stamping** is a process that is forcefully made and leaves a permanent imprint or impression. (Stamping includes indelible ink marking.) .
- **Mold marking** is marking that is part of the mold used to make the item. Mold marking can be either indented or raised.

In summary, watches and clocks must be marked with their country of origin for purposes of 19 U.S.C. 1304, and in accordance with Part 134 of the Customs Regulations. Clocks and watches must also be marked in accordance with the special marking requirements of Additional U.S. Note 4, Chapter 91 of the HTSUS.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, (Mint Annex) NW, Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>